

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

**AMERICAN COMMERCE INSURANCE
COMPANY,**

No. 2:10-cv-02100 RBL

Plaintiff,

VS.

JEFFREY and JOLENE SEMENSOW,
husband and wife;

**ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

Defendants.

THIS MATTER is before the Court on Plaintiff American Commerce Insurance Company's Motion for Summary Judgment [Dkt. #6]. This is an insurance coverage Declaratory Judgment action. Plaintiff American Commerce sued its insured, Mr. Semensow, seeking a determination that it did not have defense or indemnity obligations to him arising out of an automobile accident. Semensow is the defendant in an underlying lawsuit, which was brought by the estate of the person killed in that accident.

At the time of the accident, Semensow was admittedly driving a truck owned by his employer and regularly provided to him as part of his job. Semensow had an American Commerce insurance policy which provided coverage for his own automobile. That policy

1 expressly excluded coverage for vehicles (other than the “covered vehicle”) “furnished or
2 available for your regular use.”

3 American Commerce seeks Summary Judgment, arguing and demonstrating that its
4 policy does not provide coverage for the vehicle Mr. Semensow was driving at the time of the
5 accident. Defendants have not responded to the Motion. The underlying Plaintiff was
6 provided notice of the Motion, and has not intervened or otherwise participated in the case.

7 Under W.D. Wash. Local Civil Rule 7(b)(4), the court deems the failure to respond to
8 be an admission that the motion has merit. Furthermore, Plaintiff’s motion has merit,
9 independent of Rule 7(b)(4). The Plaintiff’s Motion for Summary Judgment [Dkt. #6] is
10 therefore GRANTED. Plaintiff American Commerce has no duty to defend or indemnify the
11 Semensow defendants in the underlying lawsuit. This Order terminates this Declaratory
12 Judgment action.

13 IT IS SO ORDERED.

14 Dated this 8th day of April, 2011.

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17 ROBERT J. BRYAN for
18 Ronald B. Leighton
19 United States District Judge
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